

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAWN BRECKLE,)
)
 Plaintiff,)
)
 v.) No. 4:11CV1480 RWS
) (FRB)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
 Defendant.)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

This cause is on appeal from an adverse ruling of the Social Security Administration. Presently pending before the Court is defendant's Motion to Reverse and Remand (Doc. #15). All pretrial matters were referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636(b) for appropriate disposition.

Defendant answered plaintiff's Complaint in this cause on November 15, 2011. In the instant Motion to Reverse and Remand, defendant requests that the matter be remanded for further consideration of plaintiff's claims. Specifically, defendant avers that, upon remand, the Appeals Council will direct an Administrative Law Judge (ALJ) to reevaluate plaintiff's residual functional capacity (RFC) consistent with his findings regarding limitations in social functioning resulting from plaintiff's severe

mental impairments. Defendant further avers that the ALJ will also be directed to evaluate the effect, if any, plaintiff's marijuana use may have on her RFC. Defendant avers that if the ALJ finds plaintiff to be disabled considering the effects of marijuana use, he will then determine if marijuana use is a contributing factor material to the determination of disability. The defendant therefore requests that the matter be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further consideration of plaintiff's claims. Plaintiff has responded to defendant's motion indicating that she has no objection to remand as proposed by defendant.

A review of the defendant's Motion to Reverse and Remand shows it to be well taken. See, e.g., Buckner v. Apfel, 213 F.3d 1006, 1009-11 (8th Cir. 2000).

Accordingly,

IT IS HEREBY RECOMMENDED that defendant's Motion to Reverse and Remand (Doc. #15) be granted.

IT IS FURTHER RECOMMENDED that the decision of the Commissioner be reversed and this cause be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g), for further consideration of plaintiff's claims.

The parties are advised that any written objections to this Report and Recommendation shall be filed not later than **November 29, 2011**. Failure to timely file objections may result in

waiver of the right to appeal questions of fact. Thompson v. Nix, 897 F.2d 356, 357 (8th Cir. 1990).



UNITED STATES MAGISTRATE JUDGE

Dated this 22nd day of November, 2011.